



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
TREASURY BUILDING
LANSING, MICHIGAN 48922

JAMES J. BLANCHARD, Governor
ROBERT A. BOWMAN, State Treasurer

January 29, 1987

TO: County Clerks, Prosecutors, Sheriffs, Treasurers,
Controllers, and County Administrators

FROM: Richard L. Baldermann, CPA *RLB*
Administrator
Local Government Audit Division

RE: Accounting for Property Forfeited Pursuant to the Enforcement of
Controlled Substances, Public Act 135 of 1985 (MCLA 333.7521-.7524)

The Michigan Public Health Code, Article 7--Controlled Substances, provides that property associated with controlled substances in violation of the article can be seized, and ownership forfeited to the enforcing unit of government. This letter defines accounting procedures to record the proceeds of such property and related expenditures.

MCLA 333.7521 indicates that property used (or intended to be used) in violation of Article 7, and therefore subject to forfeiture, includes:

- Controlled substances, including imitations thereof
- Raw materials, products or equipment for producing or transporting controlled substances
- Containers of above property
- Aircraft, vehicles or vessels involved in the sale and/or receipt of controlled substances
- Books, records, and research items
- Money, negotiable instruments, securities and anything of value intended for exchange for a controlled substance or to facilitate a violation of Article 7

According to Public Act 135 of 1985, forfeited property belongs to the entity (unit of government) having budgetary authority over the agency which seized the property, or the State if the State seized the property. Where the original owner of such property establishes that they had no knowledge or consent of violation of the article, the owner may avoid forfeiture of the property.

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According to MCLA 333.7524, the unit of government may retain the property for official use, including any money, negotiable instruments, securities and other items of value, or sell the property and retain the proceeds, net of any expenses of seizure, court costs, maintenance and expense of sale. The net proceeds are to be used to "enhance law enforcement efforts pertaining to this article." Alternatively, property may be turned over to the administrator designated by the Board of Pharmacy or forwarded to the U.S. Drug Enforcement Agency.

The gross proceeds from the sale of forfeited property should be deposited in a Special Revenue Fund. Expenditures for appropriate expenses of seizure, court costs, maintenance and expense of sale, as well as appropriate law enforcement activities in accordance with the Act shall be paid from this fund. The fund would be credited with revenue from forfeitures and debited for expenditures associated with law enforcement efforts pertaining to the Act.

The following are the required fund and account numbers to be used in accordance with the Uniform Chart of Accounts for Counties and Local Units of Government in Michigan.

Special Revenue Fund

Drug Law Enforcement Fund 265, (the attached summary is to be inserted in your Chart of Accounts notebook).

Activities

Activities 333-335--Other Law Enforcement--assign as needed

Accounts

Detailed revenue and expenditure accounts as needed and provided for in the Uniform Chart of Accounts.

265. DRUG LAW ENFORCEMENT FUND

PURPOSE--This fund is used to account for earmarked revenue set aside for drug law enforcement under the provisions of Public Act 135 of 1985, being Section 333.7523 to 333.7524 of the Compiled Laws of 1979, as amended.

CHARACTER--This fund is classified as special revenue because of the limited usage (for drug law enforcement) of its assets.

DISTINGUISHING FEATURES--This fund may be found in any county or local unit having budgetary authority over an agency which may seize property involved in the violation of controlled substance statutes.

ESTABLISHMENT AND AUTHORIZATION--This fund may be established by resolution of the governing body of the unit. It accounts for the proceeds of forfeited property seized in connection with a violation of the controlled substance statutes in the Public Health Code, Article 7, being Section 333.7100 to 333.7545 of the Compiled Laws of 1979, as amended.

OPERATION AND PRESENT USE--Money for the operation of this fund is normally supplied by forfeited money, negotiable instruments, securities, and the proceeds of the sale of other property and articles of value. Expenditures include payments for expenses of seizure, forfeiture and sale. The available balance is to be used to enhance law enforcement efforts pertaining to controlled substances (Article 7). The legislative body of the unit is to approve all expenditures. This fund is mandatory if the unit has received forfeited assets.

This fund is subject to the budgetary requirements of Public Act 2 of 1968, as amended.